

**Hearing Date and Time: June 4, 2015 at 10:00 a.m. (Prevailing Eastern Time)**

**MORRISON & FOERSTER LLP**

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*Counsel for The ResCap Borrower Claims  
Trust*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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In re:	)	Case No. 12-12020 (MG)
	)	
RESIDENTIAL CAPITAL, LLC, <u>et al.</u> ,	)	Chapter 11
	)	
Debtors.	)	Jointly Administered
-----	)	

**NOTICE OF THE DECLARATION OF DAVID CUNNINGHAM IN SUPPORT  
OF THE RESCAP BORROWER CLAIMS TRUST'S OBJECTION TO CLAIM  
NO. 4418 FILED BY DAVID CRUZ**

PLEASE TAKE NOTICE that the undersigned have filed the attached declaration of David Cunningham (the "Declaration"), submitted in support of the *ResCap Borrower Claims Trust's Objection to Claim No. 4418 Filed By David Cruz Jr.* (the "Objection") [Docket No. 8529]. The facts pertaining to claim number 4418 filed by Mr. Cruz set forth in the Declaration are the same as those that were set forth in the previous declaration [Docket Nos. 8529-3] submitted by Kathy Priore in support of the Objection (the "Priore Declaration"). In preparing the Declaration, Mr. Cunningham

reviewed the Priore Declaration as well as the supporting documents and information in the Debtors' books and records.<sup>1</sup>

**PLEASE TAKE FURTHER NOTICE** that an evidentiary hearing on the Objection will take place on **June 4, 2015 at 10:00 a.m. (Prevailing Eastern Time)** before the Honorable Martin Glenn, at the United States Bankruptcy Court for the Southern District of New York, Alexander Hamilton Custom House, One Bowling Green, New York, New York 10004-1408, Room 501.

Dated: June 2, 2015  
New York, New York

Respectfully Submitted,

/s/ Norman S. Rosenbaum  
Norman S. Rosenbaum  
Jordan A. Wishnew  
Jessica J. Arett  
**MORRISON & FOERSTER LLP**  
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*Counsel for The ResCap Borrower  
Claims Trust*

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<sup>1</sup> To avoid unnecessary duplication, the documents attached to the Priore Declaration [Docket Nos. 8529-3], which were reviewed in preparing the Declaration, are not being re-attached to the Declaration.

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

_____	)	
In re:	)	Case No. 12-12020 (MG)
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RESIDENTIAL CAPITAL, LLC, <u>et al.</u> ,	)	Chapter 11
	)	
Debtors.	)	Jointly Administered
_____	)	

**DECLARATION OF DAVID CUNNINGHAM IN SUPPORT OF THE RESCAP  
BORROWER CLAIMS TRUST'S OBJECTION TO CLAIM NO. 4418 FILED BY  
DAVID CRUZ JR.**

I, David Cunningham, hereby declare as follows:

1. I serve as Director of Regulatory and Compliance for the ResCap Liquidating Trust (the "Liquidating Trust"), established pursuant to the terms of the *Second Amended Joint Chapter 11 Plan Proposed by Residential Capital, LLC, et al. and the Official Committee of Unsecured Creditors* [Docket No. 6065] confirmed in the above-captioned Chapter 11 Cases. During the Chapter 11 Cases, I served as Director for Residential Capital, LLC ("ResCap"), a limited liability company organized under the laws of the state of Delaware and the parent of the other debtors in the above-captioned Chapter 11 Cases (collectively, the "Debtors"). I have been employed by affiliates of ResCap since August of 2001. I began my association with ResCap in 2001 working as a Foreclosure Specialist in the Loan Servicing Operation. In 2002, I became a Team Leader in the Foreclosure Department, a position I held until 2003 when I became a Manager. In 2007, I became the Director, Foreclosure Operations. In February of 2013, I became Director of Regulatory and Compliance. In my current position, among other duties, I am responsible for ensuring that ResCap satisfies its obligations under settlements entered into with the Department of Justice and the Federal Reserve Board. I also assist the ResCap Borrower Claims Trust (the "Borrower Trust") in the claims reconciliation

process. I am authorized to submit this declaration (the “Declaration”) in support of the *ResCap Borrower Claims Trust’s Objection to Claim No. 4418 Filed By David Cruz Jr.* (the “Objection”).<sup>1</sup>

2. Except as otherwise indicated, all facts set forth in this Declaration are based upon my personal knowledge of the Debtors’ operations, information learned from my review of relevant documents and information I have received through my discussions with other former members of the Debtors’ management or other former employees of the Debtors, the Liquidating Trust, and the Borrower Trust’s professionals and consultants. If I were called upon to testify, I could and would testify competently to the facts set forth in the Objection on that basis.

3. In my capacity as Director, I am familiar with the claims reconciliation process in these Chapter 11 Cases with regard to Borrower Claims and I assist the Liquidating Trust with the claims reconciliation process. Except as otherwise indicated, all statements in this Declaration are based upon my familiarity with the Debtors’ books and records, the Debtors’ schedules of assets and liabilities and statements of financial affairs filed in these Chapter 11 Cases (collectively, the “Schedules”), my review and reconciliation of claims, and/or my review of relevant documents. I or my designee at my direction have reviewed and analyzed the proof of claim form and supporting documentation filed by the Claimant. Since the Plan became effective and the Borrower Trust was established, I, along with other members of the Liquidating Trust’s management or other employees of the Liquidating Trust have consulted with the Borrower Trust to continue the claims reconciliation process, analyze claims, and determine the appropriate treatment of the same. In connection with such review and analysis, where

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<sup>1</sup> Defined terms used but not defined herein shall have the meanings ascribed to such terms as set forth in the Objection.

applicable, I or the Liquidating Trust personnel under my supervision, and the Liquidating Trust's and the Borrower Trust's professional advisors have reviewed (i) information supplied or verified by former personnel in departments within the Debtors' various business units, (ii) the Debtors' books and records, (iii) the Schedules, (iv) other filed proofs of claim, and/or (v) the Claims Register maintained in the Debtors' Chapter 11 Cases.

4. The Debtors sent a Request Letter to the Claimant on June 21, 2013, requesting additional documentation in support of the Claim. The Request Letter stated that the Claimant must respond within 30 days with an explanation that states the legal and factual reasons why he believes he is owed money or is entitled to other relief from the Debtors, and that he must provide copies of any and all documentation that he believes supports the basis for his claim. The Request Letter further stated that if the Claimant does not provide the requested explanation and supporting documentation within 30 days, the Debtors may file a formal objection to the Claim, seeking to have the Claim disallowed and permanently expunged. The Debtors did not receive a response to the Request Letter from the Claimant.

5. On November 9, 2012, the Claimant filed the Claim. See Claim, attached hereto as Exhibit A.

6. On June 8, 2007, the Claimant obtained a loan originated by GMACM, dba ditech.com, in the amount of \$316,000 (the "Loan"), evidenced by a note (the "Note") and secured by a mortgage (the "Mortgage") on property located at 4672 NW 57th Ave, Coral Springs, FL 33067 (the "Property"). Copies of the Note and the Mortgage are attached hereto as

Exhibit B and Exhibit C, respectively. On or about August 16, 2007, the Loan was transferred from GMACM to Fannie Mae within the MERS system.<sup>2</sup>

7. GMACM serviced the loan from origination until servicing was transferred to non-Debtor Nationstar Mortgage, LLC on December 1, 2008. See Notice of Transfer of Servicing, attached hereto as Exhibit D.

8. The Debtors' books and records do not indicate that the Loan was transferred back to the Debtors after June 2007, and such a transfer is not reflected in any public property records.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: June 2, 2015

/s/ David Cunningham  
David Cunningham  
Director for the ResCap Liquidating  
Trust

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<sup>2</sup> The Claimant attached to the Proof of Claim a document he received from Nationstar entitled "Milestones for 1000375-0656742506-2." See Proof of Claim Exhibit J2. That document shows Fannie Mae becoming the new investor on August 7, 2007.